

FILED

OCT 23 2012

Clerk, U.S. District Court
District Of Montana
Great Falls

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
GREAT FALLS DIVISION

UNITED STATES OF AMERICA,)	Cause No. CR 10-91-GF-SEH
)	CV 12-86-GF-SEH
Plaintiff/Respondent,)	
)	
vs.)	ORDER DISMISSING MOTION AND
)	DENYING CERTIFICATE OF
NANCY ALLISON McCALL,)	APPEALABILITY
)	
Defendant/Movant.)	
_____)	

On October 22, 2012, Defendant/Movant Nancy Allison McCall filed a motion to vacate, set aside, or correct her sentence pursuant to 28 U.S.C. § 2255. McCall is a federal prisoner proceeding pro se.

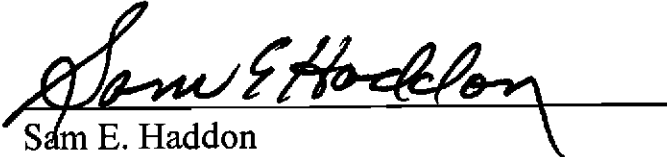
The instant motion is McCall's second § 2255 motion. Her first was denied, along with a certificate of appealability, on January 4, 2012. *See* Mot. § 2255 (doc. 38). Order (doc. 40). This Court lacks jurisdiction to consider a second. 28 U.S.C. § 2255(h); *Burton v. Stewart*, 549 U.S. 147, 149 (2007) (per curiam). Because dismissal is imperative, a certificate of appealability is not warranted. Because

McCall's motion is frivolous and untimely, transfer to the Court of Appeals is not in the interest of justice. 28 U.S.C. §§ 1631, 2255(f).

ORDERED:

1. McCall's second § 2255 motion (doc. 41) is DISMISSED for lack of jurisdiction.
2. A certificate of appealability is DENIED.
3. The Clerk of Court is directed to enter, by separate document, a judgment of dismissal in the civil case.

DATED this 22nd day of October, 2012.


Sam E. Haddon
United States District Judge